

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 13-10072-CIV-MARTINEZ/MCALILEY

EYEPARTNER, INC.,

Plaintiff,

v.

KOR MEDIA GROUP LLC d/b/a
GLOVUE, et al.

Defendants.

**ORDER AMENDING ORDER APPOINTING
COMPUTER FORENSICS EXPERT**

On July 15, 2013, this Court entered a Preliminary Injunction that requires that a “neutral third-party computer forensics expert” image and preserve certain electronically stored data. [DE 91, ¶¶ 4, 5]. On July 23, 2013, the Court appointed Steve Zack as the Special Master “to ensure compliance with the Court’s Preliminary Injunction Order” and to manage discovery and resolve discovery disputes. [DE 99]. When the parties were unable to agree who should serve as the computer forensics expert, the Special Master submitted a letter recommendation to the Court, that it appoint Kelly J. Kuchta to that position, and on August 27, 2013, I entered an Order that did just that. [DE 114, *Order Adopting Special Master Report*]. The Special Master’s recommendation did not address who should pay Mr. Kuchta. Noting that the then-presiding District Court Judge had ordered that Plaintiff and Defendants each pay fifty percent of the Special Master’s fees [DE 99], I adopted that same

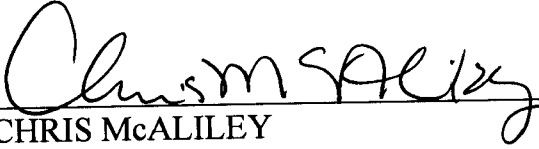
arrangement for payment, and ordered that Plaintiff and Defendants be equally responsible to pay Mr. Kuchta's fees. [DE 99].

Defendants thereafter appealed that Order to the District Court Judge, and that appeal has been fully briefed. [DE 124, 130, 138]. I read those documents and learned, for the first time, that at the preliminary injunction hearing Plaintiff's counsel unequivocally advised the Court that Plaintiff would pay the fees of the computer forensic expert. [See DE 123-1, p. 5]. Had I known this, I would have ordered that Plaintiff be fully responsible for Mr. Kuchta's fee. Believing that I was in error when I issued my August 27, 2013 Order, I have decided to amend that Order to correct the error. Accordingly, the Court ORDERS as follows:

This Court's Order Adopting Special Master Report [DE 114], is hereby MODIFIED to eliminate the last sentence and to add the following:

Plaintiff shall be responsible for payment of Mr. Kuchta's fees. However, to the extent the Special Master determines that any portion of Mr. Kuchta's invoices to Plaintiff is a result of unreasonable delay or obstruction by the Defendant, he may recommend to the Court that the Defendant be ordered to pay those costs.

DONE and ORDERED in chambers in Miami, Florida this 4th day of October, 2013.


CHRIS McALILEY
UNITED STATES MAGISTRATE JUDGE

cc:

The Honorable Jose E. Martinez

Steve Zack, Special Master

Counsel of record